

**ENTERED**

September 13, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

BRIAN KOPATZ,

Plaintiff,

VS.

DIRECTOR TDCJ-CID,

Defendant.

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CIVIL ACTION NO. 2:18-CV-232

**OPINION AND ORDER DENYING**  
**MOTION FOR APPOINTMENT OF COUNSEL**

In this habeas corpus petition, Petitioner requests appointment of counsel and investigative resources (D.E. 58). There is no constitutional right to counsel in federal habeas proceedings. *Johnson v. Hargett*, 978 F.2d 855 (5th Cir. 1992). Rule 8 of the rules Governing § 2254 Cases requires that counsel be appointed if the habeas petition raises issues which mandate an evidentiary hearing. Respondent filed a motion to dismiss Petitioner's cause of action as time-barred on February 28, 2018 and the motion is still pending. At this point no issues mandate an evidentiary hearing.

An evidentiary hearing will be scheduled and counsel will be assigned *sua sponte* if there are issues which mandate a hearing. Moreover, counsel may be assigned if discovery is ordered and issues necessitating the assignment of counsel are evident. Rule 6(a) of the Rules Governing § 2254 Cases; *Thomas v. Scott*, 47 F.3d 713, 715 n. 1 (5th Cir. 1995). Accordingly, Petitioner's motion for appointment of counsel (D.E. 58) is denied without prejudice.

All relief not granted by this order is DENIED.

ORDERED this 12th day of September, 2018.

A handwritten signature in black ink, reading "B. Janice Ellington", is written over a horizontal line.

B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE